

REMARKS

Claims 16-20 are pending in the subject application. By this preliminary amendment, Applicant has canceled claims 1-15 and 21-22. New claims 23-25 have been added. Claims 23 and 24 are identical to claims 18 and 19, respectively, except that they are dependent on claim 16 rather than claim 17. New claim 25 is identical to claim 20, except that it is dependent on claims 23 and 24 instead of claims 16-19. Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 16-20 and 23-25 are before the Examiner. Favorable consideration of these claims is respectfully requested.

Claim rejections under 35 USC 112

Claims 1-15, 21 and 22 had been rejected under 35 USC 112, first paragraph. These claims have been canceled in the interest of expediting prosecution of the subject application.

Claim rejections under 35 USC 103(a)

In the Office Action mailed February 24, 2003, the Patent Office rejected claims 1-22 under 35 USC 103(a) as being unpatentable over Li et al. (U.S. Pat. No. 5,830,177) in view of Jimenez et al. (U.S. Pat. No. 5,486,509). This rejection was maintained and made part of a final rejection of all claims in the Office Action mailed May 6, 2004. Based on a comment made by the Examiner on page 6 of the Office Action mailed August 12, 2003, Applicant believes that claims remained rejected because of the disclosure in column 4 of the Li et al. patent in view of teaching by Jimenez et al.

Examiner had interpreted the disclosure in column 4 of the Li et al. patent as follows in the Office Action of February 24: "The Li et al. patent teaches compositions and treatment methods useful for the prevention of hair loss during chemotherapy. In a preferred embodiment, a nucleic acid comprising an expression vector capable of expressing human p-glycoprotein is administered to a subject (See Column 4, Lines 39-62)." The Examiner explained in the same paper "the Examiner does not see a patentable distinction between the applicant's selection of an activated HSF in nucleic acid or

protein form and the disclosure in Li et al. of the administration of a nucleic acid comprising an expression vector capable of expressing human p-glycoprotein". Pending claims 16-20 and 23-25 relate to a method of protecting against chemotherapy-induced alopecia that comprises administering an effective heat dose to the scalp of a patient or the skin of an animal sufficiently prior to the administration of a chemotherapeutic drug. They do not encompass administration of p-glycoprotein or HSF in protein or nucleic acid form. Withdrawal of the rejection under 103(a) of claims 16-20 is respectfully requested.

In view of the foregoing remarks and amendments to the claims, Applicant believes that the claims currently before the Examiner are in condition for allowance, and notice of such action is respectfully requested. Examiner is cordially invited to call Applicant at 41-21-728-0320 if clarification is needed or if Examiner believes a telephone interview would expedite the prosecution of the subject application.

Date: September 21, 2004

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "R. Voellmy", written in a cursive style.

Richard Voellmy, Applicant & Attorney

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